GULF COOPERATION COUNCIL

TRADE SUMMARY

This section of the report analyzes the trade policies of the six member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE)) of the Gulf Cooperation Council (GCC).

In 1999, the U.S. trade surplus with the GCC was $1.1 billion, a decrease of nearly $5.4 billion from the U.S. trade surplus in 1998. U.S. merchandise exports to the GCC were $12.2 billion, a decrease of $3.2 billion, 20 percent, from the level of U.S. exports to the GCC in 1998. U.S. imports from the GCC were $11.1 billion in 1999, a $2.2 billion increase (25.3 percent) from the level of imports in 1998.

Recent figures indicate U.S. foreign direct investment (FDI) in Saudi Arabia had reached $4.2 billion in 1998. U.S. FDI in the UAE was $710 million in 1998, up 25.2 percent from that in 1997. In the GCC as a whole, U.S. FDI is largely concentrated in the petroleum extraction, petrochemical, and manufacturing sectors.

OVERVIEW

The GCC is an economic and political policy-coordinating forum for its members. Since it cannot impose trade policies upon its member states, each is free to pass and enforce its own trade laws. However, there has been growing cooperation among GCC members on certain issues, such as intra-GCC investments, standards-setting, and intellectual property protection. More recently, the GCC agreed that a customs union would come into force by March 2005.

The United States favors strengthening regional integration efforts among GCC members, as well as enhancing U.S.-GCC economic and commercial ties. To this end, the U.S. Government engages in high-level economic policy talks with GCC members through the U.S.-GCC Economic Dialogue. The most recent meeting of the U.S.-GCC Economic Dialogue took place in October 1999 in Abu Dhabi.

IMPORT POLICIES

Tariffs

The GCC leadership has been considering for several years the establishment of a unified tariff structure. At the November 1999 Summit, the GCC Council announced that such a customs union would come into force in March 2005 with tariff rates at 5.5 percent for exempted and basic commodities and 7.5 percent for other commodities. However, several ancillary issues, most notably how the GCC states will apportion the tariff revenues, remain to be resolved.

Currently, some GCC countries maintain tariffs of 15-20 percent on products similar to those produced locally. Saudi Arabia maintains a 12 percent tariff on most products, but this can reach as high as 20 percent for certain protected industries. Oman maintains a maximum five percent tariff on most imported consumer products, including automobiles. However, tariffs on tobacco, pork, and alcohol products can reach 100 percent in countries where importation of such products is permitted. As of January 1, 2000, Oman restored customs duties to 1998 levels, rescinding a 1999 decision to raise customs duties on many categories of imported luxury goods to 15 percent. The UAE, which is the regional commercial hub and has traditionally depended on foreign trade, has continued to push for lower tariff rates throughout the GCC. As a transitional step, Bahrain cut tariffs on most foodstuffs and essential consumer goods as of this year.

Of the GCC countries, Bahrain, Kuwait, Qatar, and the UAE are members of the WTO. All four of these countries entered the GATT and WTO under simplified procedures, based on the United Kingdom’s previous application to the GATT 1947 on their behalf. A GATT observer since 1986, Saudi Arabia applied for WTO membership in April 1993. Negotiations for the terms of Saudi Arabia’s accession are well under way. Similarly, Oman became an observer to the WTO in April 1995 and submitted its formal application for WTO accession in 1996. Oman is expected to complete negotiations on its WTO accession package and accede to the WTO this year, following the introduction of new WTO-related legislation and approval by WTO members.

Import Licensing

Except in Bahrain, varying degrees of licensing procedures are enforced to protect domestic industries or limit trade to nationals of GCC countries. In Saudi Arabia, the importation of certain articles is either prohibited or requires special approval from competent authorities. Specifically, the importation of alcohol, firearms, illegal drugs, and pork products are prohibited, and imports of agriculture seeds, live animals, fresh and frozen meat, books, periodicals, movies, tapes, religious books and tapes, chemicals and harmful materials, pharmaceutical products, wireless equipment, horses, products containing alcohol, and natural asphalt require special approval. Kuwait prohibits the importation of alcohol, firearms, and pork products. In the UAE, only firms with the appropriate trade license can engage in importation, and only UAE nationals can get such a license. In Oman, companies that import goods must be registered with the Ministry of Commerce and Industry. Importation of certain classes of goods, such as alcohol, firearms, narcotics, and explosives require a special license, and media imports are subject to censorship.

Documentation Requirements

All GCC countries impose complicated, costly, and time-consuming import documentation requirements. For example, certain documents must be authenticated by the National U.S.-Arab Chamber of Commerce (or, in the case of U.S. goods destined for Saudi Arabia, by the U.S.-Saudi Business Council) and by the diplomatic mission of the importing country. In Oman, with the exception of food products, this authentication procedure is not required if the importing company has an existing agency agreement with the U.S. exporter. In 1996, Oman began the process of simplifying customs clearance documentation to expedite the flow of goods and promote its ports and airports. For example, Arab League boycott-certification is no longer required. However, only Omani nationals are permitted to submit documents to clear shipments through customs. Since July 1998, the UAE has required that documentation for all imported products must be authenticated by the UAE Embassy in the country of origin. There is an established fee schedule for this authentication. Without the validation in the country of origin, customs authorities will apply the fee schedule when the goods arrive in the UAE.

STANDARDS, TESTING, LABELING AND CERTIFICATION

The United States is increasingly concerned about certain restrictive GCC standards. In particular, shelf life standards are set at arbitrary levels that restrict imports of a variety of food products of interest to U.S. suppliers. Because of their geographical proximity, European suppliers are less affected by the shortened shelf-life periods.

The situation has deteriorated in recent years, as shelf life durations for a variety of food products have been shortened, in some cases by half, as GCC countries begin to strictly enforce Gulf Standard 150/1993, Part I. GCC shelf-life standards appear to violate the WTO SPS agreement as they are arbitrary and do not appear to be consistent with any science-based approach. Their removal could significantly increase U.S. food exports to the region. In the context of its accession to the WTO, Oman agreed to revise its shelf-life requirements program to meet the substantive requirements of the SPS Agreement. Specifically, Oman intends to eliminate mandatory shelf-life standards for "shelf-stable foods" upon accession. Oman also agreed to establish regulations and procedures in line with international norms for "highly perishable refrigerated" food products and to gradually replace remaining shelf-life requirements on these products with a scientific regulatory framework by December 31, 2000.

In Saudi Arabia, the Saudi Arabian Standards Organization (SASO) imposes shelf life requirements on food products. Over the past few years, SASO has shortened shelf life durations for baby foods, eggs, stuffed cookies, chilled meats, and some snack foods – all products of interest to U.S. exporters. Some have claimed that SASO has shortened shelf life standards to protect Saudi Arabia's expanding food processing industry; Saudi Arabia has become self-sufficient in egg production, produces an increasing share of milk and poultry products, and is growing in importance as a biscuit and cookie producer.

In 1990, the United States entered into a highly successful arrangement with SASO to encourage cooperation in the development of standards. SASO's work frequently leads to the creation of regional GCC standards. The U.S.-SASO partnership, which includes a U.S. technical advisor in Riyadh funded by the U.S. Government, has led to greater transparency in the Saudi system and has increased opportunities for American exporters to comment on draft Saudi standards. SASO has already adopted ISO 9000 as approved standards for Saudi Arabia and acts as an accreditation body through the Quality Assurance Department. The 1993 NIST-SASO MOU was renewed in July 1997 for another three years. More recently in 1996, the United States National Institute of Standards and Technology (NIST) and the GCC countries concluded a memorandum of understanding (MOU) on standards, metrology, and technical assistance programs at the economic dialogue meeting in Bahrain.

In October 1995, Saudi Arabia initiated a pre-shipment certification program to monitor and control the quality of certain products imported into the country. The International Conformity Certification Program (ICCP) currently applies to 76 regulated consumer product lines. The ICCP is managed by Intertek Testing Services (ITS), which inspects and tests, on behalf of SASO, shipments bound for Saudi Arabia. The United States and many other exporting countries have questioned the manner in which the ICCP has been implemented. Problems include the lack of transparency, *ad valorem* fees, and favorable national treatment of local products manufactured in the Gulf Region. Recently though, shipments valued at less than five thousand dollars have been exempted from compliance with ICCP regulations and in September 1998, Saudi Arabia's Ministry of Commerce removed all food and agricultural products from the ICCP.

Standards and labeling issues are also a problem in many of the GCC countries. For example, telecommunications and computer equipment standards tend to lag behind market developments, which often results in government tenders that specify purchase of obsolete and more costly items. That said, the GCC plans to implement a system for registering companies that comply with international standard ISO 9000. The central accreditation organization will be the Gulf Standards and Metrology Organization (GSMO) for the GCC countries. An agency in each of the six countries will inspect factories, make recommendations, and issue registrations. The GSMO is negotiating with the EU to put the program in place, and the EU is sending experts to help the GCC in technical and training aspects of the program and to set up mutual recognition systems for certification and quality control mechanisms. In January 1998, a GCC standardization official reported that the GSMO had approved approximately 1000 unified standards for the GCC countries to date.

GOVERNMENT PROCUREMENT

Most GCC countries maintain preferential "buy national" policies and/or offset provisions requiring that a portion of major (and usually military) government tenders be subcontracted to local firms. Several GCC states actively support the creation of offset companies in diverse fields as part of defense procurement.

More specifically, Kuwaiti Government procurement policies specify the use of local products when available and prescribe a 10 percent price advantage for local firms in government tenders. However, this local firm price advantage is not commonly applied in government tenders. Kuwait's offset program requires that foreign firms awarded government contracts with a single or cumulative value in any one fiscal year (July 1 to June 30) of one million Kuwaiti dinars ($3.3 million) or more, invest 30 percent of the contract value in an approved project in Kuwait or an agreed third country. In 1997, Kuwait began applying the offset requirement to nonmilitary contracts as well. Until then, the scope of the offset requirement had been limited to military sales. This expanded coverage is a negative development that could represent a significant new barrier to expanded U.S. exports to Kuwait. Kuwait is not a signatory to the WTO Agreement on Government Procurement.

Saudi Arabian Government contracts on project implementation and procurement are regulated by several royal decrees that strongly favor GCC nationals. However, most defense contracts are negotiated outside these regulations. Under a 1983 decree, for example, contractors must subcontract 30 percent of the value of the contract, including support service, to majority-owned Saudi firms. An exemption is granted in instances where no Saudi company can provide goods and services to fulfill the obligation. In addition, Article 1(d) of the tender regulations requires that Saudi individuals and establishments have preference over all other entities in government dealings. The same regulations also accord preference to "mixed" entities as long as Saudi nationals hold at least 51 percent of the mixed entities' capital. Article 1(e) gives preference to products of Saudi origin that satisfy the requirements of the procurement, even when the product specifications are inferior to those of a foreign counterpart. Saudi Arabia also gives priority in government purchasing programs to GCC products. These items receive up to a 10 percent price preference over non-GCC products in all government contracts contested by foreign contractors.

Oman provides a 10 percent price preference to tenders that use high local content in goods or services. Additionally, the government considers quality of product or service and support as well as cost in evaluating bids. For most major tenders, Oman typically notifies firms either already registered in Oman or preselected by project consultants. Bidders' costs soar when some award decisions are delayed, in some instances for years, or when bidding is reopened with modified specifications and typically short deadlines. Oman is known to have an offset program only with the United Kingdom, although the investment can originate from any country. Offsets are not standard adjuncts to government contracts and have not been associated with any U.S. defense transactions, whether commercial or foreign military sales. In the context of its accession to the WTO, Oman has agreed to initiate negotiations to join the WTO Agreement on Government Procurement when it joins the WTO.

The UAE does not require that a portion of any government tender be subcontracted to local firms, but there is a 10 percent price preference for local firms on procurement and tenders. The UAE requires a company to be registered in order to be invited to receive government tender documents. To be registered, a company must have 51 percent UAE ownership. However, these rules do not apply on major project awards or defense contracts where there is no local company able to provide the goods or services required. Set up in 1990, the UAE's offset program required defense contractors with contracts worth more than $10 million to establish joint venture projects that yield profits equivalent to 60 percent of their contract value within a specified period (usually seven years). There are also reports – as well as anecdotal evidence – that indicate that defense contractors can sometimes satisfy their offsets obligations through an up-front, lump-sum payment directly to the UAE Offsets Group. The projects must be commercially viable joint ventures with local business partners, and are designed to further the UAE objective of diversifying its economy away from oil. To date, more than 30 projects have been launched, including, inter alia, a hospital, an imaging and geological information facility, a leasing company, a cooling system manufacturing company, an aquiculture enterprise, Berlitz Abu Dhabi – a language instruction center, and a firefighting equipment production facility. The UAE is not a signatory to the WTO Agreement on Government Procurement.

Qatar gives preferential treatment to contractors that include high local content in bids for government tenders. As a rule, bids must be submitted through local Qatari agents, but there are exceptions. For example, government procurement of defense equipment does not require use of local agents. However, local agents are often used and have been very useful in securing contracts. Qatar gives a 10 percent price preference to local firms and a five percent price preference to GCC firms in all government procurement. Qatar is not a signatory to the WTO Agreement on Government Procurement.

In Bahrain, foreign firms are required to have a local agent or a local partner before bidding on a government contract. Construction companies bidding on government construction projects must be registered with the Ministry of Works and Agriculture. The government makes major purchasing decisions through the tendering process with invitations being issued to selected, prequalified firms. Firms do not need to prequalify for smaller contracts. Bahrain is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

While there is no GCC-wide export subsidy program, certain member states have programs to support local industries that may, in effect, equate to export subsidies.

Saudi Arabia contends that it has no export subsidy programs for industrial production. However, the costs for establishing productive facilities in the industrial cities in Saudi Arabia are artificially low: land is available at little or no cost, and low interest loans are available from the Saudi industrial development fund. Because input prices are relatively low in Saudi Arabia, investment in the production of petroleum and related downstream products is comparatively attractive. The Saudi Government contends that low input prices reflect Saudi Arabia's low costs for domestic oil production.

Saudi Arabia began a substantial reduction in wheat production subsidies in 1993. The Grain Silos and Flour Mills Organization (GSFMO) controls wheat production by assigning production quotas to each of the country's grain farmers. Farmers can only receive government support prices within preassigned quotas. GSFMO production quotas in 2000 remain at 1.8 metric tons. This conforms with current policy to produce for domestic needs. Production support prices remain $400 per metric ton, a level still well above world prices.

The Oman Development Bank (ODB) provides export payment guarantees, at below local market rates, protecting Oman's relatively few non-petroleum exporters from payment problems on transactions, subject to ODB approval of buyer and country risk. The Omani Ministry of Commerce and Industry also offers soft loans to projects in the industrial, tourism, health, education, and service-related sectors. Formerly interest-free, these loans now charge about four percent interest. However, in 1999, due to budgetary constraints, the Omani government temporarily suspended the soft loan program and encouraged private sector investors to turn to commercial banks for financing. In the context of its WTO accession, Oman reported that a newly established Export Credit Guarantee Agency (ECGA) issues guarantees to commercial banks for providing financing to exporters against the risks of nonpayment and that there is no interest subsidy involved.

Kuwait offers industrial subsidies similar to those of other GCC states. The Industrial Bank of Kuwait offers below market rate loans to local industry. Land is also provided at low cost, and imports of machinery and other goods are exempted from customs duties. Industries also benefit from low-cost utilities.

Bahrain has phased out most industrial subsidies for export industries. The government permits the duty-free importation of raw material inputs for incorporation into products for export and the duty-free importation of equipment and machinery for newly established export industries. All industries in Bahrain, including export and foreign-owned firms, benefit from low-cost utilities.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

GCC states have made some progress in recent years in adopting laws and regulations protecting intellectual property. However, most of these laws are not yet consistent with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and all of the GCC countries – except Bahrain – were identified in last year's Special 301 review. The GCC Secretariat has declared the protection of intellectual property rights (IPR) to be a priority and is working to strengthen GCC laws in the six member states, particularly in patent protection. In this respect, the GCC has issued a unified patent law whose ultimate purpose is to create a patent system for all member states. The GCC patent office, headquartered in Riyadh, began accepting patent applications in October 1998, but has not yet issued any patents. According to GCC patent regulations, once a patent is registered with the GCC patent office, all GCC member states automatically afford its owner protection. The GCC recently adopted amendments to the law, drafted in consultation with the World Intellectual Property Organization. However, the full force and effect of the amendments are not yet known. Although all GCC states have trademark laws, some are not effectively enforced. The GCC has also indicated an interest in creating common trademark and copyright laws and regimes. However, no progress has been made so far.

The GCC countries are in various stages of acceding to international intellectual property conventions. All GCC states are members of the World Intellectual Property Organization (WIPO) and, except Saudi Arabia and Oman, are members of the World Trade Organization (WTO). Despite the progress to date, IPR protection problems continue throughout the region, particularly with enforcement. Pirated video cassettes, computer software, and sound recordings are available to varying degrees. Counterfeit products such as clothing, auto parts, and household products are also widely available.

Saudi Arabia

As part of its effort to gain membership in the World Trade Organization, Saudi Arabia has embarked on a wholesale revision of its intellectual property laws to bring them into conformity with the TRIPS Agreement. Saudi Arabia is working with the World Intellectual Property Organization to comply with its obligations under the Agreement. The United States has provided substantial input on these issues in bilateral meetings concerning Saudi Arabia's WTO accession.

Saudi Arabia enacted copyright and patent laws in 1989. The United States has raised a number of concerns about the copyright law, including the fact that U.S. sound recordings are not clearly protected. Saudi Arabia asserts that through its accession to the Universal Copyright Convention, it is obliged to protect U.S. and other non-GCC member works. However, the United States has asked Saudi Arabia to provide greater certainty on this issue, preferably through amending its legislation.

While Saudi Arabia's patent law provides a generally adequate legal basis for protection, its patent term and compulsory licensing provisions are not yet consistent with the provisions of the TRIPS Agreement. The functions of the Saudi patent office also need to be substantially improved as the office has issued only 26 patents and has a backlog of more than 7,000 applications. The office has recently streamlined its procedures in an effort to expedite consideration of applications. Once it is fully functional, the recently established GCC patent office may also serve to ameliorate the backlog situation.

Saudi Arabia has made significant progress on copyright enforcement in the video and sound recordings market, particularly in clearing shelves in retail stores of pirated video and music cassettes. However, much of the pirated video and audio material has reportedly gone “underground” in Saudi Arabia, requiring new enforcement initiatives. Although Saudi Arabia has made some progress in discouraging the sale and use of pirated software, U.S. software manufacturers are still seeking greater Saudi government enforcement action against software copiers and end-users of unauthorized software.

The United Arab Emirates

The UAE enacted copyright, trademark, and patent laws in 1992. The government is now working to amend the patent law to bring it into compliance with its obligations under the TRIPS Agreement, but progress has been slow. The current UAE patent law protects pharmaceutical processes but not products. Due to confusion surrounding interpretation of protection for foreign works in the law, several recent court cases have resulted in acquittals for UAE companies charged with violating UAE federal copyright and trademark laws.

The UAE Government has cracked down on piracy of audiovisual works and sound recordings. As a result, shops in the UAE do not carry pirated audio/video works and sound recordings. Modern movie theaters have opened since September 1994 and show western movies obtained from licensed distributors. Pirated video products enter the country from neighboring Oman, but are not generally available in shops registered and licensed by government authorities.

The central government is also committed to countering computer software piracy, which is widespread. In 1996, the UAE recorded the largest drop in software piracy worldwide. As a result, in mid-1997, international software manufacturers honored the Minister of Information and Culture for his commitment to combating software piracy. Recent press reports have provided extensive coverage of UAE raids on suspect entities, and have detailed UAE seizures of pirated goods. Large quantities of pirated goods have been destroyed and press coverage has been prominent. In early 1999, U.S. motion picture and business software associations recommended removing the UAE from the Special 301 Watch List.

Bahrain

Bahrain was removed from the Special 301 Watch List in 1999 in recognition of its greatly enhanced IPR protection. The government has made dramatic progress in reducing copyright piracy, patent and trademark protection has always been strong, and there continue to be no reports of significant violations of U.S. patents and trademarks in Bahrain. The government’s copyright enforcement campaign – based on inspections, closures, and improved public awareness – began in late 1997 against the video industry, followed by the audio and software industries, with impressive results. The commercial pirated video and audio markets are nearly gone. The government plans to amend the copyright law by June 2000 to bring it into full compliance with its obligations under the TRIPS Agreement.

Kuwait

Kuwait became a member of the World Intellectual Property Organization in April 1998, but has not yet signed the Berne Convention for the Protection of Literary and Artistic Works (copyright) or the Paris Convention for the Protection of Industrial Property (patent and trademark). The National Assembly approved a copyright law in December 1999, and the Kuwaiti government has pledged to submit several amendments to the National Assembly in order to make the law fully compliant with its obligations under the TRIPS Agreement.

Kuwait has patent and trademark laws on the books, but only the trademark law is in effect. The patent law was passed in 1962 and is not consistent with the TRIPS Agreement. Enforcement of the trademark law is reasonably effective, but foreign trademark holders complain that the registration and renewal process is burdensome and costly. While the

National Assembly vetoed government patent and trademark decrees in December 1999, identical laws are pending before the National Assembly. Passage is expected during the first quarter of 2000. Absent patent protection, pharmaceutical products have depended on Kuwait's strict drug registration criteria for protection against pirated-copies. In December 1998, the Ministry of Health issued a decree, which took effect June 1, 1999, barring the registration in Kuwait of unauthorized copies of drugs still under patent in their country of origin.

Qatar

Although Qatar's copyright law officially took effect on October 20, 1996, government reorganizations led to some uncertainty as to the status of the Copyright Bureau and consequently to any progress in enforcing this law. In January 1999, the Copyright Bureau, originally established under the now defunct Ministry of Information, was officially re-instituted at the Ministry of Finance, Economy and Commerce, with the Minister granted full enforcement authority. Some progress in enforcement of the copyright law has been recorded during 1999.

Qatar has no independent patent law or patent office, but has announced that it will adhere to the patent law adopted by the GCC in November 1999. Establishment of a GCC patent office is being coordinated with the other GCC countries. The Ministry of Public Health requires registration of all pharmaceutical products imported into the country and will not register pirated copies of products patented in other countries. The Ministry of Public Health enforced this policy during 1999. However, U.S. industry has raised concerns regarding adherence to this policy. Qatar provides protection for trademarks registered with the Office of Commercial Registration in the Ministry of Finance, Economy and Commerce.

Oman

Oman issued a copyright protection law in 1996, and in 1999 enacted decrees banning the local sale of pirated video cassettes, sound recordings, and computer software. Enforcement of the copyright protection decree by the Ministry of Commerce and Industry and Royal Oman Police has been effective, as once-plentiful pirated video and audio tapes and computer software have disappeared from local vendors' shelves. In the context of WTO accession, Oman has indicated that it will use the GCC Patent Office and GCC Patent Law to establish a domestic patent system, rather than adopt national legislation. In adopting the GCC law and regulations, Oman will amend those provisions not in conformity with the TRIPS Agreement. The Ministry of Health says it verifies patent compliance when reviewing new import applications for pharmaceuticals. However, U.S. industry has raised concerns about this verification process. As a precondition of WTO accession, Oman is expected in early 2000 to introduce amended copyright and patent legislation and expanded enforcement laws that will be fully compliant with the TRIPS Agreement.

SERVICES BARRIERS

Insurance

Most GCC countries discriminate against foreign insurance companies, generally by restricting foreign participation in the onshore market (as in Kuwait), or by requiring operation through a local sponsor (as in Saudi Arabia and Oman). (Note, however, that a sponsorship requirement is not uniquely applied to insurance firms.) Moreover, in Oman, in the insurance sector, as in all services except banking, foreign ownership may not exceed 49 percent. As part of its WTO accession package, Oman is expected to introduce legislation no later than January 2001 allowing majority foreign ownership of up to 70 percent in most services sectors. Oman also will be phasing in commitments over a period of years to allow 100 percent foreign ownership for key sectors, including telecommunications services and many financial services.

Foreign insurance companies can establish a presence in the UAE by operating a branch or representative office. This option allows 100 percent foreign ownership, but, in general, limits business activities to offshore operations. Qatar currently bans the establishment of new insurance companies, and there is no indication the ban will be lifted soon. In December 1996, Bahrain issued a decree amending the country's insurance law to allow foreign companies to open life insurance businesses.

The companies are being allowed to enter the life insurance sector because of a lack of local experience in the field. Prior to the new law, companies could establish only representative offices in Bahrain. Saudi Arabia has allowed insurance companies to operate in the Kingdom, but there is no insurance law governing the sector. The government has considered a regulatory framework for insurance, but the timetable for the adoption and implementation of such regulation is uncertain. The central bank has assumed *de facto* jurisdiction over companies selling whole life insurance and similar investment products, requiring them to come under the control of financial institutions who are already subject to central bank regulation.

Banking

Banking activity in the GCC countries is subject to a variety of restrictions. Saudi regulations require that Saudi nationals own 60 percent of any bank. However, the Saudi Government has decided to allow GCC banks to open branches in the Kingdom. In Kuwait, foreigners are permitted to own up to 40 percent of Kuwaiti banks. Bahrain continues as a regional financial services hub and continues to issue new licenses to banks (12 in 1998), focusing on promoting the Islamic, offshore, and investment banking sectors. The traditional commercial banking sector remains saturated.

While Oman, Qatar, and the UAE have laws permitting foreign banks to operate, these countries have barred new non-GCC banks from establishing operations on the grounds that their countries are "over-banked." Despite 1997 GCC initiatives to facilitate GCC-based banks operating branches in other GCC states, no new foreign banks have begun operating in the UAE in the last few years. In the UAE, foreign banks may open representative offices. Oman does not permit representative offices. The UAE and Oman do not permit offshore banking. Qatar places some restrictions on foreign banks operating in the country. For example, only foreign banks established in Qatar before 1970 may receive central bank approval to open branch offices. Since 1998, two foreign banks have opened several branches.

Shipping

Kuwait has prevented foreign shipping lines access to government project cargo by granting the United Arab Shipping Company the right of first refusal on all such cargoes. However, Kuwait no longer applies this requirement to shipments from U.S. ports. Bahrain continues to favor the United Arab Shipping Company – in which Bahrain is a shareholder – on cargo contracts for government projects. Saudi Arabia gives preferences to national carriers for up to 40 percent of government cargoes. Under these rules, the Saudi national shipping company and United Arab Shipping Company receive preferences.

INVESTMENT BARRIERS

Foreign equity is limited to 49 percent in Kuwait, Qatar, and the UAE, although the UAE has exempted the Jebel Ali and other free zones from this barrier. Products entering the UAE from the free zone are treated as foreign products. The 49 percent limit on foreign equity in Qatar can be overcome by the issuance of an emiri decree.

Oman provides national tax treatment for joint venture firms with no more than 49 percent foreign direct investment. Corporate tax rates have dropped from 50 percent to no more than 25 percent for majority foreign-owned investments with a minimum one percent of Omani equity participation. Oman is reviewing and modifying its laws and procedures to help attract increased foreign investment. Majority foreign-owned investments are eligible for tax holidays of up to 10 years, a benefit also enjoyed by Omani firms. The tax holiday waives corporate income tax as well as customs duties on goods imported for business purposes.

Kuwait currently maintains restrictions on foreign investment, including limits on foreign ownership (a maximum of 49 percent in general and 40 percent in the banking sector) and discriminatory taxation policies. The national assembly, in December 1999, vetoed a government decree that would have allowed majority foreign ownership of Kuwaiti companies, in some circumstances up to 100 percent foreign ownership, and tax holidays for up to 10 years for new investors. The assembly based their action on the grounds that the decree violated the constitution since it was not of an urgent nature. An identical draft law has been approved by the assembly's economic and finance committee but final approval may be delayed as it is being linked to a controversial draft law that would charge employers for hiring expatriate workers. A free trade zone, in which many of the current restrictions do not apply, was launched in March 1999 and officially inaugurated in November 1999.

While Saudi Arabia maintains no legal restrictions on the share of foreign ownership, under current policy, wholly foreign-owned investment contracts are rare. Moreover, Saudi Government incentives such as tax holidays and Saudi Industrial Development Fund lending are normally not available unless there is at least 25 percent Saudi ownership. The foreign capital investment regulation requires that foreign investment be made consistent with the nation's development priorities and that investments include some technology transfer. Foreigners may not invest in joint ventures engaged solely in advertising, trading, distribution or marketing. Foreign equity is taxed at a maximum rate of 45 percent of profits. Saudis are not subject to a tax on profits, although they do pay a wealth tax ("zakat"). Saudi Arabia is currently considering a major revision of its foreign investment code, which may significantly change its investment and taxation regimes.

Bahrain permits 100 percent foreign equity ownership of direct investments by GCC nationals, and is considering extending this to all foreign investors. The United States and Bahrain signed a Bilateral Investment Treaty (BIT) in September 1999. Once ratified by both sides, the BIT will provide additional benefits and protection to U.S. investors in Bahrain, such as the better of national or most-favored-nation treatment, the right to make financial transfers freely and without delay, international law standards for expropriation and compensation cases, and access to international arbitration. Oman currently permits 100 percent foreign ownership on a case-by-case basis as well, with approval of the Council of Ministers. However, new WTO-related legislation expected to be introduced in 2000 will delegate this approval to the Minister of Commerce and Industry, expediting the application process.

Only GCC nationals are permitted to invest in local real estate throughout the GCC, except Saudi Arabia. Bahrain may permit all foreign nationals to own land later this year. Foreign investment in publicly traded Saudi Arabian companies is possible through mutual funds listed in Saudi Arabia or in the United Kingdom. In Bahrain, expatriate residents with more than one year's residence may purchase stocks in some publicly traded companies under certain circumstances. While foreigners are prohibited from purchasing shares of individual companies on the UAE stock exchange, they are permitted to purchase a limited number of shares of certain mutual funds. Qatar allowed foreign nationals to participate directly in the first public offering of shares of the privatized telecommunication company Q-Tel. Foreign nationals may invest in other publicly offered companies indirectly through local investment firms. In Oman, foreigners of all nationalities are permitted to purchase shares on the Muscat Securities Market (MSM). As of year-end 1998, approximately 14.4 percent of the MSM's total market capitalization was foreign-owned.

ELECTRONIC COMMERCE

Electronic commerce is in its nascent stages of development in GCC countries. In the UAE, the Government of the Emirate of Dubai has announced plans to establish an Internet city/free zone. All of the GCC countries try to restrict or discourage local access to websites that offer pornographic or other materials offensive to Islamic values.

OTHER BARRIERS

Agent and Distributor Rules

In the GCC countries, U.S. firms may find that compliance with U.S. law presents special challenges when selecting a local agent. Termination of agency agreements can be difficult in all the GCC countries and may involve considerable financial losses to the foreign supplier.

Saudi law requires that in-country distributors be licensed by the Ministry of Commerce. Only Saudi citizens can obtain licenses. However, a recent GCC decision may broaden this to include GCC citizens. Direct sales are possible except in the case of sales to government agencies, where a "service agent" is required.

The UAE permits two types of commercial entities to import and distribute products. One is a 100 percent UAE-owned business and the other is a limited liability company in which foreign ownership of up to 49 percent of equity is permitted. All UAE commercial agents must be registered with the Ministry of Economy and Commerce. U.S. exporters seeking UAE-wide coverage must appoint a separate agent for each of the seven emirates or appoint a master agent with offices or sub-offices in each emirate. Once chosen, agents/distributors have exclusive rights and are extremely difficult to replace without their agreement.

Since September 1996, Oman registers nonexclusive agency agreements. Since 1993, Oman has permitted an importer to bring in goods without paying a commission to a registered agent, provided that the goods are imported through an Omani port or airport. However, in practice, it is difficult for a foreign firm to sell directly to the government without an Omani agent scouting for and bidding on tender opportunities. In addition, termination of an agency agreement can be difficult, as a supplier may not unilaterally terminate an agency agreement without a justifiable breach of the agency agreement by the agent.

Local agents are currently required in all sales transactions in Kuwait.

Bahrain's revised Agency Law, implemented in 1998, eliminated the sole agent requirement, capped agent commissions at five percent, and provided for the phasing out of commissions entirely by 2003.

Corporate Tax Policies

Saudi Arabia and Kuwait tax foreign companies, but not domestic entities. Additionally, several GCC countries tax royalties as if they were 100 percent profit and maintain a variety of other tax policies considered unfair to foreign companies. For example, the UAE imposes a 20 percent income tax on foreign banks. No tax is levied on domestic banks. Emirate governments in the UAE seek to attract foreign operations to UAE free zones by offering a number of incentives, including tax breaks and exemptions. Since 1999, Oman provides national tax treatment to joint venture firms with no more than 49 percent direct foreign investment, i.e., a maximum rate of 12 percent tax on net profits. The Omani branch of a foreign firm is regarded as an Omani firm for purposes of computing the 51 percent Omani ownership of the joint venture. Taxes were reduced from a maximum rate of 50 percent to 25 percent for other categories of joint ventures. These rates do not apply to foreign petroleum companies, which pay royalties according to their concession agreement. Oman now levies a 10 percent tax on services performed offshore for Omani firms.

In Saudi Arabia, foreign investors may receive incentives, including a 10-year tax holiday, for approved agricultural and manufacturing projects with a minimum 25 percent Saudi participation. However, foreign equity investors in a joint venture are taxed at a maximum of 45 percent of profits. Saudi Arabians are not taxed on income. Major revisions in foreign investment and related corporate taxation rules are under consideration. Qatar levies corporate income taxes at rates from five to thirty-five percent of net profits. All Qatari-owned firms continue to benefit from a blanket exemption from corporate taxes under authority granted to the Minister of Finance, who may grant a tax holiday of up to five years for new investment by foreign firms. An emiri decree can extend the tax holiday for foreign firms for up to 10 years. Kuwait currently imposes a maximum income tax rate of 55 percent on foreign firms doing business in Kuwait. Kuwaiti corporations are not subject to income tax, but are subject to a mandatory five percent "zakat" contribution. Kuwait has announced plans to lower the maximum tax rate to 30 percent, but implementing legislation has not yet been submitted to the national assembly. Bahrain has no personal or corporate taxation, except on oil company profits.

Procedural and Financial Irregularities

Procedural and financial irregularities can be significant barriers to trade in GCC countries. Such irregularities have resulted in lost opportunities for U.S. suppliers of goods and services and have forced some U.S. businesses out of some markets. Disregard of irregularities may subject U.S. citizens or companies to prosecution under the Foreign Corrupt Practices Act (FCPA).

In August 1996, Kuwait passed Law Number 25, requiring disclosure of all commissions and other payments made in relation to securing a government contract valued at 100,000 Kuwaiti dinars or more (approximately $335,000). It is hoped that Law 25 will increase transparency in the government's procurement practices, but the jury is still out regarding its effectiveness.

On September 30, 1994, the GCC announced that it would end its adherence to the secondary and tertiary aspects of the Arab League boycott of Israel, eliminating a significant trade barrier to U.S. firms. In January 1996, Oman and Israel signed an agreement to open trade missions in the other country. In April 1996, Qatar and Israel agreed to exchange trade representation offices. Israel opened its office in May 1996. In March 1996, the GCC reiterated its commitment to end the secondary and tertiary boycott, and recognized the "total dismantling of the Arab boycott of Israel as a necessary step in advancing the peace process and promoting regional cooperation in the Middle East and North Africa." Although all GCC states are complying with these stated plans, some commercial documentation continues to contain boycott language, requiring U.S. companies to notify the U.S. Office of Anti-boycott Compliance when they receive such documentation. Since the adoption of these policies, the incidence of boycott language in commercial documentation is decreasing.

Kuwait no longer applies a secondary boycott of firms doing business with Israel and has taken steps to eliminate all direct references to the boycott of Israel in its commercial documents. Kuwait still applies a primary boycott of goods and services produced in Israel.

Recent data indicate that the number of prohibited boycott requests in the UAE continues to decline (less than 16 percent in 1999). It is believed that these cases stem from bureaucratic and administrative inefficiencies rather than from a desire to circumvent UAE government/GCC policy to cease secondary/tertiary boycott application. The U.S. Embassy continues to work closely with the UAE Government to eliminate prohibited boycott requests.

Oman no longer enforces compliance with the boycott. Although the Omani trade representative was recalled in late 1996 and not replaced until late in 1999, Oman and Israel maintain trade offices in each other's country, with an Israeli representative resident in Muscat.

Omani customs processes Israeli-origin shipments entering with Israeli customs documentation. Likewise, Israeli immigration stamps in third country passports are not an issue. Telecommunications links and mail flow normally. However, Omani firms have shied from carrying any identifiably Israeli consumer products. Normal commercial ties await more favorable developments in the Middle East peace process throughout the GCC.